IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
CIVIL WRIT PETITION NO.5196 OF 1988

Chandrakant Neminath Shete — Petitioner
Vs.
State of Maharashtra & ors. — Respondents

Mr.L.T.Satelkar for petitioner.
Mr.V.S.Gokhale, AGP for Resp.Nos.1 and 2.
Mr.R.G.Ketkar for Resp.No.4.

CORAM: B.H.MARLAPALLE & D.B.BHOSALE,JJ.
April 26, 2006.

P.C.

1. In this petition filed against the communication dated 15th February 1988 issued by the respondent no.5, the petitioner seeks two different reliefs viz. (a) that his age of superannuation ought to be 60 years on par with the age of superannuation fixed for the college lecturers at the relevant time and (b) the recovery directed against him of an amount of Rs.6186/- was illegal and consequently he was entitled for the pay scale of Rs.550-900. That was the pay scale available to the post of Demonstrator.

2. The petitioner came to be appointed to the post of Librarian at Smt.Putlaben Shah College of Education, Sangli with effect from 1/6/1973 and he claims that he possession the qualification of B.A.

(1963) as well as Bachelor of Library Science (1966) from the University of Pune. By the impugned communication dated 15/2/1988 issued by the respondent no.5, the petitioner was informed that he would retire on 31/10/1988 on reaching the age of superannuation i.e. 58 years. By the communication dated 6/7/1988 the Administrative Officer, High Education Grants informed the petitioner regarding pay fixation of the petitioner in the pay scale of Rs. 425-15-500-EB-15-560-20-700, as on 1/6/1973 when he was appointed when he was appointed in the pay scale of Rs. 250-15-500. The Principal, in turn, by his communication dated 29/7/1988 informed the petitioner that his revised pay scale would be Rs. 425-700 in terms of the letter dated 6/7/1988 received from the respondent no.3. All these three communications i.e. letters dated 15/2/1988, 6/7/1988 and 29/7/1988 have been challenged in this petition in addition to the prayer for declaration that the age of the petitioner ought to be 60 years for retirement.

3. The Principal of the concerned college has filed affidavit-in-reply and has stated that the petitioner being a Librarian could not be equated for

the age of superannuation with the teaching staff and he would be governed by the service conditions as applicable to the non teaching staff including the age of superannuation. The petitioner states that the GR dated 25th October 1977 issued by the Government of Maharashtra for the implementation of UGC recommendations (revised scales of pay) grants the benefit of age of superannuation at 60 to the petitioner. This submission is fallacious. Clause VIII of the said GR states that the age of superannuation for teachers (including Principals) of Universities and non-Government affiliated colleges shall be 60 years and thereafter no further extension in service shall be given. It is the contention of the learned counsel for the petitioner that when the college teachers and librarians have been equated on par for the benefit of pay scales, it is deemed that the benefit of the enhanced age of superannuation is also extended to the post of librarian. Such a presumption cannot be drawn and if the State Government or the University Grants Commission had extended the superannuation to 60 years in respect of the librarians the Government Resolution dated 25/10/1977 or 18th September 1980 ought to have stated so specifically. Just because the pay scale

for the post of librarian was revised on par with the post of Demonstrator or Lecturer in a degree college, it cannot be accepted that all other service conditions applicable to the post of lecturer / demonstrator were automatically extended to the post of librarian.

4. We have also noted that at no point of time after the GR dated 18/9/1980 was issued by the Government of Maharashtra, the petitioner submitted any representation to the competent authority viz. respondent no.3 or respondent no.5 at stating that he ought to have been given the pay scale applicable to the post of librarian with due qualifications i.e. the Bachelor's Degree in Library Science as contemplated in the said G.R. dated 18/9/1980. On the contrary on 1/6/1973 he was appointed in the pay scale of Rs. 250-400 as an unqualified librarian and the GR dated 18/9/1980 specifically stated that the said pay scale would stand revised to Rs. 425-700. In the absence of any such representation having been made through the Principal and to the Administrative Officer, High Education Grants on the basis that the petitioner possessed qualifications of Bachelor of Library Science even when his initial appointment was

made as on 1/6/1973, it would not be possible for us to address this issue and allow the petition. While admitting the petition his prayer for continuation till attaining the age of 60 years was turned down by the order dated 26/10/1988 and he thus retired on attaining the age of 58 years i.e. on 31/10/1988 and obviously during the last more than 18 years he is in receipt of the pensionary benefits on the basis of pay he would have drawn in the pay scale of Rs. 425-700. In case the petitioner possessed due qualifications for entitling him to a higher pay scale, he may place that grievance before the respondent nos.2 and 3 through the respondent no.5, but we cannot entertain the said prayer in this petition and we do not wish to express any opinion on that issue.

5. In the premises, this petition fails and the same is hereby dismissed. We further clarify that if the petitioner submits a representation regarding his pay scale, the same will have to be considered by respondent nos.2 and 3 on its own merits. Rule discharged.

(D.B.BHOSALE,J.) (B.H.MARLAPALLE,J.)